



December 3, 1999

Ms. Gita P. Bolt  
Interim General Counsel  
Texas Southern University  
3100 Cleburne Avenue  
Houston, Texas 77004

OR99-3496

Dear Ms. Bolt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129910.

Texas Southern University received a request for the following information:

1. The final first year GPA's of each student admitted as first year students in the Fall of 1996, highlighting those students that where [sic] readmitted as first year students in the Fall of 1998 and 1999.
2. Consistent with the American Bar Association, Standard 504, "Previously Disqualified Applicant", please provide a copy of the statement placed in the above mentioned readmitted students file which outlines the considerations that led to the decision to readmit those student [sic] disqualified in the Spring of 1997.
3. Copies of the meeting, appointment, and phone logs of the Assistant Dean of Academic Affairs, Dean Virge Mouton for the months November and December of 1996.

You claim that the requested documents are educational records that must be withheld pursuant to sections 552.026 and 552.114 of the Government Code, and pursuant to the Family Education Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g. We have considered the exception you claim and have reviewed the submitted information.

In Open Records Decision No. 634 (1995), this office concluded that (1) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by sections 552.026 and 552.101 of the Government Code without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 of the Government Code as a “student record,” insofar as the “student record” is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception. In this instance, however, you have submitted a copy of the de-identified grade report to this office for consideration. Therefore, we will consider whether the information in this report is excepted from disclosure under sections 552.026 and 552.114 of the Government Code.

“Education records” under FERPA are records that

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

20 U.S.C. § 1232g(a)(4)(A). *See also* Open Records Decision Nos. 462 (1987), 447 (1986). Information must be withheld from required public disclosure under FERPA only to the extent “reasonable and necessary to avoid personally identifying a particular student.” Open Records Decision Nos. 332 (1982), 206 (1978). We agree that the names of the individual students must be withheld under FERPA. However, since the grade point averages do not appear to personally identify a particular student, that information must be released.

You have not submitted the remaining responsive information to this office for review; thus, we presume that any responsive material, unless it is confidential by law, has been released.<sup>1</sup> 20 U.S.C. § 1232g (the federal Family Educational Rights and Privacy Act of 1974); Gov’t Code § 552.114; Open Records Decision No. 634 (1995).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the

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<sup>1</sup>We find it difficult to believe that all information responsive to item 3 of the request is subject to FERPA. *See* Gov’t Code § 552.353 (providing penalties for failure to permit access to public information).

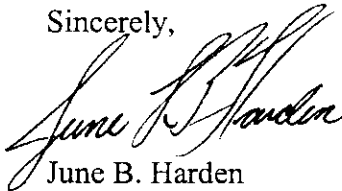
governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "June B. Harden", written in a cursive style.

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref: ID# 129910

Encl. Submitted documents

cc: Mr. Curtis Lilly  
5427 Brian Haven  
Houston, Texas 77091  
(w/o enclosures)